

REMARKS

In the outstanding Office Action, all claims pending (1-19) were subjected to a restriction requirement.

ELECTION REQUIREMENT SUMMARY

The Examiner has required election of a single species for prosecution on the merits, to which the claims shall be restricted if no generic claim is finally held to be allowable. The species are set forth in the Office Action as follows:

Species A, the nucleic acid fused to the fusion polypeptide, wherein the nucleic acid can be rRNA;

Species B, the nucleic acid fused to the fusion polypeptide, wherein the nucleic acid can be mRNA; and

Species C, the nucleic acid fused to the fusion polypeptide, wherein the nucleic acid can be DNA.

The Examiner asserts that these species lack unity of invention because they are not so linked as to form a single general inventive concept under PCT rule 13.1.

Response

Applicants provisionally elect to continue prosecution of **species C, DNA**, with traverse. It is respectfully submitted that claims 1 - 19 read on the elected species.

Applicants respectfully traverse the Examiner's species election requirement on the following bases.

The Examiner alleges the technical feature linking the claims as:

the use of covalently linked polypeptides with nucleic acids. However, Nemoto et al. describe the use of covalently linked mRNA to corresponding encoded polypeptides.

Applicants respectfully submit that instant subject matter is directed to a method for producing nucleotides bonded to their corresponding polypeptides by *in vitro* translation of the nucleic acids in compartments consisting of a water-in-oil emulsion. Specifically, the present subject matter is directed to the combination of (A) the *in vitro* compartmentalization of nucleic acids together with a transcription-translation mixture in a **water-in-oil emulsion** and (B) subsequent *in vitro* expression of nucleic acid-polypeptide fusions therein.

In contrast, Nemoto et al. teaches the combination of (C) the *in vitro* compartmentalization of nucleic acids in an "***in vitro virus***" and the (B) subsequent *in vitro* expression of nucleotide-polypeptide fusions therein.

Consequently, Applicants respectfully submit that the water-in-oil emulsion with a transcription-translation mixture of the instant application differs in its composition and structure from the *in vitro* virus taught by Nemoto et al. Accordingly, this difference in the features of the method taught in Nemoto et al. and the method of the present subject matter does indeed constitute a special technical feature as defined by PCT Rule 13.2 and does define a contribution over the cited reference.

Furthermore, the election of species requirement is traversed because the Examiner omits "an appropriate explanation" as to the existence of a "serious burden" if election is not required. See MPEP 803. Regardless of any differences which may exist between the inventions set forth in the species, a complete and thorough search for the invention set forth in any one of the species would require searching the art areas appropriate to the other species. At the Examiner's disposal are powerful electronic search engines providing the Examiner with the ability to quickly and easily search all of the claims.

As such, Applicants respectfully request that the Examiner reconsider and withdraw the requirement for election of species.

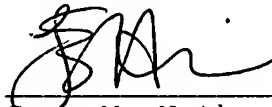
CONCLUSION

In light of the foregoing, Applicants respectfully request that the Examiner continue to conduct a substantive examination of the application. If the Examiner has any questions or comments regarding this matter, the Examiner is welcomed to contact the undersigned attorney at the below-listed number and address.

In the event this paper is not timely filed, Applicants petition for an appropriate further extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

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